

AMERICAN ARBITRATION ASSOCIATION

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In the Matter of)
Arbitration Between:)
)
Communication Workers)
of America, Local 4340,)
)
and) Case No.: 01-16-0004-6966
)
City of Cleveland)

- - -

Transcript of proceedings before
Robert J. Stein, Arbitrator, held at the
Burke Lakefront Airport, 1501 North Marginal Road,
Cleveland, Ohio 44114 on Thursday, January 18, 2018,
commencing at 10:00 a.m.

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EXHIBIT

6

EXHIBIT

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<p>1 APPEARANCES:</p> <p>2 On behalf of the Union:</p> <p>3 David Passalacqua</p> <p>4 Executive Vice President</p> <p>5 Communications Workers of America</p> <p>6 1400 East Schaaf Road</p> <p>7 Brooklyn Heights, Ohio 44131</p> <p>8 On behalf of the City:</p> <p>9 Patrick J. Hoban, Esq.</p> <p>10 Zashin & Rich</p> <p>11 Ernst & Young Tower</p> <p>12 950 Main Street</p> <p>13 4th Floor</p> <p>14 Cleveland, Ohio 44113</p> <p>15 Also present:</p> <p>16 Jamie Marquardt, Grievant</p> <p>17 Leonard Brooks, Business Agent</p> <p>18 Nicole Carlton, Commissioner of EMS</p> <p>19 ---</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 EXHIBITS</p> <p>2 JOINT MARKED</p> <p>3 A through K premarked</p> <p>4 CITY</p> <p>5 1 19</p> <p>6 2 41</p> <p>7 3 45</p> <p>8 4 123</p> <p>9 5 124</p> <p>10 6 128</p> <p>11 7 166</p> <p>12 8 214</p> <p>13 9 223</p> <p>14 UNION</p> <p>15 1 through 11 Premarked</p> <p>16 ---</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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1 Union believes to be unfair and disparate
2 treatment. Two union members contacted a CWA
3 Local 4340 chief steward to discuss alleged
4 issues with a CWA 4340 union member.

5 After the City received information
6 regarding the issue and with substantial media
7 pressure took action against the Grievant
8 Jamie Marquardt, an action that the Union
9 believes to be unfair and disparate from
10 previous actions taken by the City against
11 other city employees.

12 The Grievant had over 20 years of
13 service at the time of the incident and no
14 history of similar infractions. The Union
15 intends to show that the Employer has
16 historically taken no or lesser actions on
17 multiple occasions against city employees for
18 similar occurrences. The harshest action
19 taken by the City for a similar offense was a
20 ten day suspension that was later reduced to
21 three days. But here in this case the
22 Grievant was terminated.

23 The Union believes that what we're
24 discussing today is a sensitive subject, and
25 while the Union does not agree with what is

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1 Q How long have you been employed by the City of
2 Cleveland?

3 A Since 2007.

4 Q And how long have you been a paramedic?

5 A Eight, nine years.

6 Q And what are your duties; primarily EMS
7 response?

8 A Correct.

9 Q So you respond with the squad to EMS calls?

10 A Yes.

11 Q Can you describe for me your understanding of
12 what the relationship of EMS to the community
13 is; what the nature of it is?

14 A Taking care of injured, ill patients,
15 physically, emotionally. I mean, just
16 responding, helping people.

17 Q Do you try to maintain a relationship with the
18 citizens that you serve?

19 A Yes.

20 Q And what is the nature of that relationship
21 that you try to maintain?

22 A What do you mean? Like positive. Positive --
23 I mean, good standing. I mean, we go in their
24 houses and we interact with them and we try to
25 get along with them.

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1 stated in the posts on social media we can
2 argue over the difference in treatment between
3 our member and several other city employees.

4 THE ARBITRATOR: Thank you very much.

5 Are you ready to move forward?

6 MR. HOBAN: I am indeed, sir.

7 MARK BARRETT

8 Of lawful age, being first duly sworn, was examined
9 and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Hoban:

12 Q Good morning, Mark. How are you?

13 A Good.

14 Q Mark, could you do me a favor and please state
15 your full name for the record and spell your
16 last name for the court reporter?

17 A Mark Patrick Barrett, B-a-r-r-e-t-t.

18 THE ARBITRATOR: Is that M-a-r-c or
19 K?

20 THE WITNESS: K.

21 THE ARBITRATOR: Thank you.

22 Q And, Mark, where are you currently employed?

23 A City of Cleveland.

24 Q And in what position?

25 A Paramedic.

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1 THE ARBITRATOR: What was that last
2 part?

3 THE WITNESS: Try to get along with
4 them.

5 THE ARBITRATOR: Keep your voice up.

6 THE WITNESS: I'm sorry.

7 Q So we can capture everything you're saying.

8 A I'm actually quite loud.

9 Q You're doing good.

10 Are you familiar with Jamie Marquardt?

11 A Yes.

12 Q And how are you familiar with him?

13 A He was a -- when I started he was in the field
14 and he became sergeant and then later became a
15 captain.

16 Q Had you ever worked under his supervision?

17 A I believe so, yes.

18 Q What was the nature of your relationship? Was
19 it just a work acquaintance or were you good
20 friends?

21 A Just work acquaintance.

22 Q Were you a friend of Mr. Marquardt's on
23 Facebook?

24 A No.

25 Q I'm going to direct your attention to events

5 (Pages 14 to 17)

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<p>1 of February 15th of 2016.</p> <p>2 A Okay.</p> <p>3 Q Did you report for duty that morning?</p> <p>4 A Yes.</p> <p>5 Q So you worked that day?</p> <p>6 A Yes.</p> <p>7 Q What time do you typically report?</p> <p>8 A Seven. Between six and seven.</p> <p>9 Q And where were you working that day?</p> <p>10 A Medic 7, 37th and Woodland.</p> <p>11 Q At any time on February 15, 2016 were you made aware of a Facebook post that was attributed to Mr. Marquardt?</p> <p>12 A Yes.</p> <p>13 Q By whom were you made aware of that post?</p> <p>14 A The crew before. Again, I believe it was Matt Sykes and his partner, but I'm not sure. It was whoever the night shift crew was.</p> <p>15 Q Were the night crew shift discussing the post?</p> <p>16 A Yes.</p> <p>17 Q Were they discussing it with anybody else other than you?</p> <p>18 A I believe Fire was at the table because that's -- typically sometimes there is firemen at the table in the morning. So there is a</p>	<p>1 said.</p> <p>2 Q What effect did the post have on you?</p> <p>3 A I mean, I think I read it and I was like just surprised that it said that.</p> <p>4 Q Did it give you any concerns?</p> <p>5 A That he could get fired for writing that.</p> <p>6 Q Anything else? Anything related to your duties?</p> <p>7 A I mean, as far as like what I did after that?</p> <p>8 Q Well, in terms of how you conducted your duties with a post like this being made?</p> <p>9 I'll withdraw the question.</p> <p>10 Was there any other discussion after you first saw this post with other EMS members?</p> <p>11 A Throughout the day.</p> <p>12 Q On that day?</p> <p>13 A Yeah. It was something that people talked about.</p> <p>14 Q Were they just talking about it at Medic 7?</p> <p>15 A No, I mean, it was throughout the day. I mean, it's somewhat surprising, so --</p> <p>16 Q Did you take any actions after you saw the post?</p> <p>17 A Yes.</p>
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<p>1 chance that yes, there could have been firemen and probably another EMS and my partner and I. (City Exhibit 1 marked for identification.)</p> <p>2 Q I'm handing you what I've marked for identification purposes as CX-1, that's for City Exhibit 1. I'll ask you to take a look at that and tell me whether you're familiar with it.</p> <p>3 A Yes.</p> <p>4 Q How are you familiar with it?</p> <p>5 A This was the post that I was shown by that leaving crew, the night crew.</p> <p>6 Q And how were you shown this?</p> <p>7 A Except for the bottom.</p> <p>8 Q Except for the bottom part. You were just shown the top part?</p> <p>9 A Yeah.</p> <p>10 Q How were you shown it, on a phone or a laptop?</p> <p>11 A A phone.</p> <p>12 Q What was your reaction to the post when you first saw it?</p> <p>13 A It was surprising.</p> <p>14 Q And why was it surprising?</p> <p>15 A Just because of the nature of it and what it</p>	<p>1 Q What did you do?</p> <p>2 A I tried to make contact on an untaped line with -- well, let me back up. I called Ellen to get --</p> <p>3 Q Ellen is Captain Kazimer?</p> <p>4 A I'm sorry, yes, Captain Kazimer to get Mike's private number.</p> <p>5 Q Mike is Captain Threat?</p> <p>6 A Yes. His union rep, to try to have Mike get in contact with Jamie because I personally didn't have that capability, to have Mike have Jamie remove the post so he didn't get in trouble.</p> <p>7 Q Did you ultimately speak with Captain Threat?</p> <p>8 A Yes.</p> <p>9 Q And what was the nature of your conversation?</p> <p>10 A Just explaining to him what had been posted and that he should get in contact with him, and as I said before, he talks a lot so there -- it was probably -- it could have been a long conversation, but the gist of it was to have him take it down so he didn't get in trouble because it looked bad.</p> <p>11 Q You say it looked bad. Did you tell Captain Threat that?</p>

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<p>1 A Yeah.</p> <p>2 Q Why did you conclude it looked bad?</p> <p>3 A Just because of what it said. I mean --</p> <p>4 Q If you're finished that's fine.</p> <p>5 A Yeah, I mean just because it looked bad.</p> <p>6 Q Did you express any concerns about safety</p> <p>7 issues to Captain Threat as a result of the</p> <p>8 post?</p> <p>9 A I mean, again, I'm not -- my point of calling</p> <p>10 was so it would be removed. As far as</p> <p>11 specific safety issues, I don't remember, no.</p> <p>12 Q Okay. All right. Do you recall if Captain</p> <p>13 Threat had seen the post at the time you spoke</p> <p>14 with him?</p> <p>15 A I don't think so. I mean, if he had he didn't</p> <p>16 say he had. He seemed surprised. I don't --</p> <p>17 I don't remember if I read it to him or gave</p> <p>18 him the gist, because I wouldn't have had</p> <p>19 access to it.</p> <p>20 MR. PASSALACQUA: The Union has an</p> <p>21 objection. The conversation that took place</p> <p>22 between the witness and Mr. Threat was between</p> <p>23 union members. He identified that he was</p> <p>24 contacting Mr. Threat because he was a union</p> <p>25 official not because of his affiliation with</p>	<p>1 post when you called him?</p> <p>2 A No.</p> <p>3 Q Okay. Thank you. I have nothing further.</p> <p>4 Thank you, Mark.</p> <p>5 CROSS-EXAMINATION</p> <p>6 By Mr. Passalacqua:</p> <p>7 Q Good morning.</p> <p>8 A Good morning.</p> <p>9 Q Do you have Facebook?</p> <p>10 A Yes.</p> <p>11 Q Okay. On Facebook does an individual when</p> <p>12 they make a post have to type in their name or</p> <p>13 is that something that just automatically</p> <p>14 happens?</p> <p>15 A Just automatically happens.</p> <p>16 Q So someone could make a post but they don't</p> <p>17 type in the individual's name to show</p> <p>18 ownership? Someone could posts on another</p> <p>19 person's account; it's a potential if you have</p> <p>20 access to it?</p> <p>21 A Yes.</p> <p>22 Q And you stated that you used Facebook through</p> <p>23 a phone?</p> <p>24 A The way I saw it was through somebody's phone.</p> <p>25 I was one of the later people to get a smart</p>
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<p>1 the City of Cleveland employment, therefore</p> <p>2 it's Union conversation.</p> <p>3 THE ARBITRATOR: Go ahead.</p> <p>4 MR. HOBAN: There are two</p> <p>5 different unions, one is the C.A.R.E. Union</p> <p>6 and the other one is CWA.</p> <p>7 MR. PASSALACQUA: But he identified</p> <p>8 that he was contacting Captain Threat because</p> <p>9 of his position as a union rep.</p> <p>10 MR. HOBAN: But he wasn't his</p> <p>11 union rep, number one. Number two, I'm not</p> <p>12 aware of any Union confidentiality or union --</p> <p>13 what's the word I'm looking for -- privilege</p> <p>14 that exists, at least in the State of Ohio.</p> <p>15 THE ARBITRATOR: Yeah, I'm not aware</p> <p>16 of any either. And, you know, I'm going to</p> <p>17 allow the testimony. Overrule the objection.</p> <p>18 I mean, I think it was a matter of what he</p> <p>19 thought should happen rather than any</p> <p>20 necessarily privileged conversation about</p> <p>21 defending anyone. Just take it down I guess.</p> <p>22 Go ahead.</p> <p>23 Q I'm sorry, Mark. I'll restate the question</p> <p>24 very quickly. Did you understand, was it your</p> <p>25 conclusion that Captain Threat had seen the</p>	<p>1 phone.</p> <p>2 Q I understand. So do you use your Facebook</p> <p>3 through your phone?</p> <p>4 A I do now, yes.</p> <p>5 Q When you use Facebook through your phone do</p> <p>6 you have to sign in each time or is it</p> <p>7 automatically signed in for you?</p> <p>8 A Now it's automatically signed in for you.</p> <p>9 Q Because you have that?</p> <p>10 A Yes.</p> <p>11 Q Are you a friend of Jamie Marquardt on</p> <p>12 Facebook?</p> <p>13 A No.</p> <p>14 Q So you had no access to see any post on Jamie</p> <p>15 Marquardt's Facebook page?</p> <p>16 A I don't believe so, no. It's not a public</p> <p>17 post, no.</p> <p>18 Q Are you aware if Jamie Marquardt was</p> <p>19 identified as a City of Cleveland employee, an</p> <p>20 EMS captain or anything identifying him</p> <p>21 associated with the City of Cleveland?</p> <p>22 A I don't know. I don't think so. I mean, this</p> <p>23 is -- this is the post. (Indicating.)</p> <p>24 Q Okay. Have you worked with Jamie before in</p> <p>25 the field?</p>

7 (Pages 22 to 25)

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<p>1 By Mr. Hoban: 2 Q Mark, sort of taking from the question that 3 Dave asked. 4 A About Guy? 5 Q No, I'll explain. 6 A Okay. 7 Q Are you aware of any City of Cleveland 8 employee who posted that they were upset that 9 they didn't get the chance to kill a 12 year 10 old boy on Facebook? 11 A No. 12 Q Did, to your knowledge, Sergeant Woyma ever 13 post -- 14 A The police officer? 15 Q The police officer ever post that he was 16 disappointed or upset that he didn't get to 17 kill a 12 year old boy? 18 A No. 19 Q To your knowledge, did Mr. Estergall ever post 20 on Facebook or Twitter or any social media 21 that he was disappointed that he didn't get 22 the chance to kill a 12 year old boy? 23 A No. I'm friends with Guy. 24 Q Thank you. 25 THE ARBITRATOR: Anything else?</p>	<p>1 you think? 2 A I believe so. I'm usually early. 3 Q Now, I think you testified -- I want to make 4 sure I understand this -- that at that time 5 your phone wasn't smart enough to have social 6 media? 7 A I don't think I had a smart phone at the time 8 because I was one of the late arrivers. I had 9 a flip phone for a long time. So I don't 10 believe I had a smart phone, but I can't say 11 one way or the other. But it wasn't on my 12 phone, that I can -- 13 Q I understand. So how did you become aware of 14 this post? The top half you mentioned too of 15 that posting? 16 A It was -- again, I believe it was Matt Sykes 17 but I'm not sure. At the time he would have 18 been on night shift. 19 Q Okay. 20 A And I think that's the person that showed me 21 it. 22 Q Was it printed out like that? 23 A No. No, it was -- 24 Q On his phone? 25 A Yeah.</p>
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<p>1 RE CROSS-EXAMINATION 2 By Mr. Passalacqua: 3 Q There was conversation regarding the remainder 4 of the day that the posts that were on Jamie's 5 Facebook page were being discussed. Was there 6 any hindrance of service that day? Was there 7 any interaction with the public that day 8 regarding service? Was there any loss of 9 quality of service because of that? 10 A No. 11 Q Okay. Thank you. 12 EXAMINATION 13 By The Arbitrator: 14 Q Just a real quick question because you 15 testified to this, I want to make sure I 16 understand how it occurred. On the 15th of 17 February, 2016, what shift -- do you remember 18 what you were working? 19 A I would have been A shift. 20 Q A shift meaning? 21 A We start at seven and we continue until seven. 22 Q Seven to seven? 23 A At times I came in a little bit early and 24 worked out. 25 Q So that day did you come in and work out, do</p>	<p>1 Q On his phone? 2 A Again, I'm not sure it was Matt Sykes. 3 Q But someone showed you the posting on the 4 phone? 5 A Correct. 6 Q Okay. That's how you became aware? 7 A Correct. 8 Q Okay. All right. That's what I wanted to 9 know. That's all. I wanted to make sure I 10 understood that. Thank you. 11 A I have a smart phone now. 12 MR. HOBAN: Nothing further. 13 Thank you, Mark. 14 (Witness excused.) 15 THE ARBITRATOR: Off the record. 16 (Discussion off the record.) 17 GREGORY HYDE 18 Of lawful age, being first duly sworn, was examined 19 and testified as follows: 20 DIRECT EXAMINATION 21 By Mr. Hoban: 22 Q Greg, good morning. 23 A Good morning. 24 Q Greg, could you do me a favor and please spell 25 your first and last name for the record, state</p>

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<p>1 and spell your first and last name.</p> <p>2 A First name is Gregory, G-r-e-g-o-r-y, Hyde,</p> <p>3 H-y-d-e.</p> <p>4 Q Greg, where are you currently employed?</p> <p>5 A City of Cleveland Division of EMS.</p> <p>6 Q And how long have you been employed with the</p> <p>7 Division of EMS?</p> <p>8 A Twenty-eight years.</p> <p>9 Q And what position do you currently hold?</p> <p>10 A I'm a field paramedic and field training</p> <p>11 officer.</p> <p>12 Q How long have you been a paramedic?</p> <p>13 A Twenty-seven years.</p> <p>14 Q Where are you currently assigned?</p> <p>15 A Medic 23.</p> <p>16 Q And is that where you were assigned on</p> <p>17 February 15, 2016?</p> <p>18 A That would have been. I believe that</p> <p>19 particular day was an overtime shift for me,</p> <p>20 but normal base is there at Madison. I cannot</p> <p>21 recall which overtime shift I would have been</p> <p>22 on that day. I work a fair amount of</p> <p>23 overtime.</p> <p>24 THE ARBITRATOR: For the record, is</p> <p>25 that west side?</p>	<p>1 A There is. I mean, in my experience if you go</p> <p>2 in as a nonthreatening impartial type person</p> <p>3 your people tend not to be as aggressive with</p> <p>4 you. There have been incidents where we've</p> <p>5 been in places where people have been a little</p> <p>6 hostile. Other people as bystanders tell them</p> <p>7 to knock it off. Hey, they are there to help</p> <p>8 you, leave them alone. So that lends itself</p> <p>9 to, you know, the community perception that</p> <p>10 they understand we're there not to cause them</p> <p>11 grief but just to help them as much as we can.</p> <p>12 Q Are you familiar with Jamie Marquardt?</p> <p>13 A I am.</p> <p>14 Q How are you familiar with him?</p> <p>15 A When he was a field paramedic we worked</p> <p>16 overtime shifts together. Then he became a</p> <p>17 sergeant through the office with supplies,</p> <p>18 other things with that. Then he was promoted</p> <p>19 to captain and he was on my shift. He was one</p> <p>20 of our shift supervisors.</p> <p>21 Q Are you a Facebook friend or have you been a</p> <p>22 Facebook friend with Jamie Marquardt?</p> <p>23 A We were Facebook friends at a period of time,</p> <p>24 yes.</p> <p>25 Q Have you ever had sort of casual conversations</p>
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<p>1 THE WITNESS: Yes, it's West 98th</p> <p>2 and Madison. It's Fire Station 23.</p> <p>3 THE ARBITRATOR: I just wanted to get</p> <p>4 my geographic bearings here. I got it.</p> <p>5 Q In your almost three decades with EMS -- and I</p> <p>6 say that with congratulations, can you</p> <p>7 describe -- or based on your almost three</p> <p>8 decades aches with EMS can you describe the</p> <p>9 relationship between EMS and the community?</p> <p>10 A It's always been one of trust. The community</p> <p>11 trusts us to take care of them and do that</p> <p>12 well. It's always been an impartial</p> <p>13 relationship. We don't take sides or judge.</p> <p>14 We are there for the community, to take care</p> <p>15 of the community as best as we can.</p> <p>16 It's one where we, you know -- like I</p> <p>17 say, you don't take sides with things. We're</p> <p>18 just there to impartially take care of folks.</p> <p>19 They have a trust that they know we're there</p> <p>20 to take care of them no matter what their</p> <p>21 station or position in life is or what</p> <p>22 transpired.</p> <p>23 Q Is there any relationship between that trust</p> <p>24 and the safety of EMS members, in your</p> <p>25 experience?</p>	<p>1 with Mr. Marquardt?</p> <p>2 A Oh, many conversations with him.</p> <p>3 Q And what were the nature of those</p> <p>4 conversations, just generally?</p> <p>5 A They ran the gamut from how is the weather</p> <p>6 today. We always had a good-natured</p> <p>7 relationship with teasing and joking and</p> <p>8 stuff. And then we also had conversations</p> <p>9 about our various views on politics or life or</p> <p>10 different things. He was at one end, I was at</p> <p>11 the other end. I think we always had a mutual</p> <p>12 agreement that we agreed to disagree for most</p> <p>13 of those, but I would always say it has been a</p> <p>14 cordial relationship.</p> <p>15 Q Drawing your attention to February 15, 2016,</p> <p>16 did you have a Facebook post of</p> <p>17 Mr. Marquardt's brought to your attention on</p> <p>18 that day?</p> <p>19 A Yes.</p> <p>20 Q I'll direct your attention to right there on</p> <p>21 the table in front of you there is something</p> <p>22 marked as CX-1. I'll ask you to take a look</p> <p>23 at that. Do you recall seeing or being made</p> <p>24 aware of that particular post on February 15,</p> <p>25 2016?</p>

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1 A I do.
 2 Q And do you know how you became aware of it?
 3 A In all honesty, it was either somebody had
 4 sent me a screen shot of it or I seen it on my
 5 Facebook page. One or the other. I don't
 6 remember exactly how it came to my attention
 7 but I know eventually I did see it on my --
 8 when I saw it I was able to see it on my
 9 Facebook as well. I'm not sure if somebody
 10 sent it to me and said did you see this or in
 11 general looking through your Facebook each
 12 morning like half the world does I ran across
 13 it.
 14 Q Now, you testified previously that you were
 15 working on February 15th; is that correct?
 16 A Yes.
 17 Q Were you working an a.m. shift or a p.m.
 18 shift?
 19 A It was a day shift. It was an overtime shift.
 20 Q So starting at 7:00 in the morning?
 21 A Yes. I'm not a day shifter by nature. I like
 22 my nights.
 23 Q Do you recall if you saw or were made aware of
 24 City Exhibit 1 early in the shift or later in
 25 the day?

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1 A It was early. It was near 7:00, 7:30. It was
 2 right at the start of the day.
 3 Q What was your reaction when you saw it?
 4 A I was -- it was mixed. One, I definitely do
 5 not agree with the content of what the message
 6 was. I was kind of concerned about what the
 7 message was, and then I was concerned for
 8 Mr. Marquardt in that if he had put something
 9 up like that, because he was usually a little
 10 better about what he would put up there about
 11 what his state of mind was when he had placed
 12 it up there. So I reached out to one of the
 13 shift captains for a couple concerns.
 14 Q So you had concerns about Mr. Marquardt's
 15 well-being?
 16 A Yes.
 17 Q In the first instance, did you have any
 18 concerns about the effects of the post on EMS?
 19 A Yes, my concern was because that was such a
 20 hot topic at the time if the community had
 21 seen that somebody from the Division had those
 22 thoughts what would the community's response
 23 be to that. How would it translate into how
 24 they perceive us, how do they deal with us,
 25 would there be some aggression or animosity?

1 Because again, once you're in that uniform
 2 it's the same, it's not -- you know, my
 3 opinion is going to be what her opinion is,
 4 what his opinion is. They don't see the
 5 Division has differences of opinion. You're
 6 just the EMS person and they kind of see that
 7 uniform and that's everyone's opinion.
 8 Q My understanding of your response is that EMS
 9 could be painted with the sort of broad brush?
 10 A The broad brush of this is the consensus of
 11 opinion among the members of EMS.
 12 Q Did the content of the post give you any
 13 concerns about the performance of your duties?
 14 A Just in that I would want to be more aware of
 15 my surroundings and stuff. The potential that
 16 if somebody had seen this or knew of this,
 17 could we face potential aggression with
 18 families or people that we interact with?
 19 Basically in that neighborhood where I
 20 generally work is the neighborhood where the
 21 shooting had transpired and family members of
 22 Tamir Rice lived in that area.
 23 Q Were you familiar with the other people who
 24 were friends of Mr. Marquardt's on Facebook in
 25 February of 2016?

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1 A Yes.
 2 Q Were there other EMS members among his
 3 Facebook friends?
 4 A Yes.
 5 Q Were there police or fire employees of the
 6 City among his Facebook friends?
 7 A As far as I know, yes. Most of us have
 8 friends within all the divisions and in the
 9 civilian spectrum as well.
 10 Q Now, you mentioned speaking or contacting an
 11 EMS captain. Before we get there, let me ask
 12 you this question.
 13 (City Exhibit 2
 14 marked for identification.)
 15 Q You testified that you saw City Exhibit 1
 16 fairly early on the morning of February 15th.
 17 I'm handing you what I've marked for
 18 identification purposes as City Exhibit 2.
 19 That's CX-2. I'm going to ask you to quickly
 20 take a look at that and, Greg, if you can tell
 21 me, did you see this post?
 22 A This particular post I did not. And as we had
 23 talked, most likely the individual who had
 24 made a previous post, there is various levels
 25 of -- they call it security or privacy with

11 (Pages 38 to 41)

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1 Facebook.
 2 MR. PASSALACQUA: I would have an
 3 objection because he did not previously see
 4 this. He's making an opinion.
 5 THE ARBITRATOR: Yeah, well --
 6 A The particular reply --
 7 THE ARBITRATOR: Hold on. Are you
 8 going to get it through another witness?
 9 MR. HOBAN: I'll get it through
 10 another witness. I'm just showing that this
 11 was all he saw and that's all I need.
 12 Q Thank you, Greg. That's on me, not on you.
 13 THE ARBITRATOR: Okay.
 14 Q After you saw the post did you discuss it with
 15 any other EMS members on the 15th of February?
 16 A We did.
 17 Q How many would you say?
 18 A Roughly half dozen, dozen folks that we -- I
 19 remember the bulk of the conversations
 20 occurred at Metro. That's a hospital that
 21 receives a lot of our ambulances. It was the
 22 hot topic all morning and afternoon long.
 23 Q So it's your recollection that many EMS
 24 members had seen it?
 25 A Yes.

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1 Q And were aware of it?
 2 A Yes.
 3 Q What was the nature of discussions you were
 4 involved with with other EMS members about the
 5 post?
 6 A Our discussions were -- and everybody pretty
 7 much had the same mindset -- what was he
 8 thinking when he put that up and what happens
 9 if people see this and know that it came from
 10 somebody that works for us.
 11 Q You testified previously that you contacted
 12 the supervisor about the post?
 13 A Yes.
 14 Q Can you describe that for us please?
 15 A I had sent a text to Captain Kazimer to give
 16 me a call on an untaped line because I wanted
 17 to have a private conversation with her. And,
 18 again, my first concern was for Jamie, to make
 19 sure what he had said -- what was his mindset
 20 when he was saying that. Being somebody on
 21 his shift I wasn't comfortable trying to get
 22 ahold of him to say hey, are you okay. I
 23 figured one of his co-workers, peers would be
 24 better for that. So we brought up our concern
 25 for him. And in the course of that discussion

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1 we talked at fair length about what happens if
 2 people find out that one of our supervisors
 3 had that opinion or that was the thought of
 4 the moment.
 5 Q Did you express specific safety concerns to
 6 Captain Threat?
 7 A I did. And Captain Kazimer. They were both
 8 on the phone. They were on speaker phone at
 9 one location and I was talking to them. They
 10 were both at that conversation, or party to
 11 that conversation.
 12 Q What do you recall that either Captain Kazimer
 13 or Captain Threat said to you during the
 14 course of that conversation?
 15 A The summary or the gist of what I remember
 16 from it is that they shared the concerns for
 17 Mr. Marquardt's well-being, and we talked
 18 about community perception of how that would
 19 break a considerable amount of the trust that
 20 we have with the community, and the potential
 21 of people see that and they are upset, what is
 22 the backlash or repercussions toward our field
 23 personnel.
 24 Q You testified previously that you had been a
 25 Facebook friend of Mr. Marquardt's for some

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1 period of time some years ago?
 2 A Correct.
 3 Q And you have seen other of his Facebook posts?
 4 A I have.
 5 (City Exhibit 3
 6 marked for identification.)
 7 Q I'm handing you what I've marked for
 8 identification purposes as CX-3, that's City
 9 Exhibit 3. CX-3 is a three page document.
 10 Front page says, "Jamie Marquardt" at the top.
 11 Well, actually at the top it says, "Like,
 12 comments, share." It appears to be a screen
 13 shot of Facebook posts. The top post says
 14 "Jamie Marquardt," says "February 8 at
 15 12:54 a.m." Are you familiar with City
 16 Exhibit 3?
 17 A I am.
 18 Q And what is it?
 19 A It's a series of screen shots that I forwarded
 20 to you that I had taken from -- of posts from
 21 Mr. Marquardt's Facebook posts.
 22 Q There is no year in the dates but there are
 23 months. Are these posts from 2016?
 24 A They would be.
 25 Q So the February 8th post is approximately a

12 (Pages 42 to 45)

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<p>1 relationship with them.</p> <p>2 THE ARBITRATOR: As long as you stay</p> <p>3 within the facts it's overruled from that</p> <p>4 standpoint.</p> <p>5 I understand your objection but let's</p> <p>6 deal with just facts as a supervisor.</p> <p>7 MR. PASSALACQUA: I understand but I'd</p> <p>8 be remiss if --</p> <p>9 MR. HOBAN: No, got you.</p> <p>10 THE ARBITRATOR: You're doing your</p> <p>11 job.</p> <p>12 MR. HOBAN: No worries.</p> <p>13 MICHAEL THREAT</p> <p>14 Of lawful age, being first duly sworn, as</p> <p>15 hereinafter certified, was examined and testified as</p> <p>16 follows:</p> <p>17 DIRECT EXAMINATION</p> <p>18 By Mr. Hoban:</p> <p>19 Q Good morning, Captain.</p> <p>20 A Good morning.</p> <p>21 Q Captain could you please state your full name</p> <p>22 and spell your last name for the record?</p> <p>23 A Michael Threat, T-h-r-e-a-t.</p> <p>24 Q Captain, where are you currently employed?</p> <p>25 A City of Cleveland in the Emergency Medical</p>	<p>1 coordinating with any other entity, whether it</p> <p>2 be Cleveland Public Power, at the direction --</p> <p>3 directly under the commissioner via either</p> <p>4 directly or through the deputy commissioner.</p> <p>5 So I get most of my orders directly from my</p> <p>6 two superiors.</p> <p>7 Q Do you respond to EMS calls yourself as a</p> <p>8 captain?</p> <p>9 A Yes, I do.</p> <p>10 Q Do you respond to all the EMS calls that</p> <p>11 happen when you're working or just particular</p> <p>12 calls?</p> <p>13 A It depends. As many as I can get to.</p> <p>14 Q When you respond to a call do you have any</p> <p>15 particular duties? Do you provide hands-on</p> <p>16 treatment as a regular matter or do you assist</p> <p>17 the EMS crew in other ways?</p> <p>18 A That depends also. Sometimes I'm there first,</p> <p>19 and if I'm on scene first I do provide direct</p> <p>20 patient care. The other situation that I</p> <p>21 would provide direct patient care is if the</p> <p>22 patients are more overwhelming than the</p> <p>23 resources that we have available on scene. So</p> <p>24 every now and then in addition to the medics,</p> <p>25 the fire department I would have to provide</p>
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<p>1 Service.</p> <p>2 Q How long have you been employed with Cleveland</p> <p>3 EMS?</p> <p>4 A Since July 2, 1992.</p> <p>5 Q So going on 26 years?</p> <p>6 A Yes.</p> <p>7 Q And are you a paramedic?</p> <p>8 A Yes, I am.</p> <p>9 Q And how long have you been a paramedic?</p> <p>10 A Since July of 1993.</p> <p>11 Q You're an EMS captain. When were you promoted</p> <p>12 to the rank of captain?</p> <p>13 A Very difficult career here. I have -- I got</p> <p>14 promoted to captain the first time -- or</p> <p>15 excuse, EMS supervisor the first time in '94.</p> <p>16 October 4, 1994 to August the 26th of 1996,</p> <p>17 and the second time November of 2007.</p> <p>18 Q You've been a captain since November 2007?</p> <p>19 A Yes.</p> <p>20 Q What are the duties of an EMS captain?</p> <p>21 A Well, I'm responsible for shift coverage in</p> <p>22 the paramedic ranks, providing resource</p> <p>23 allocations for emergency calls, supervising</p> <p>24 the 911 center, interactions with hospitals,</p> <p>25 other public safety forces, police and fire,</p>	<p>1 patient care.</p> <p>2 Q O you engage in any liaison with the public at</p> <p>3 a scene in assistance of EMS responders?</p> <p>4 A Could you be more specific?</p> <p>5 Q Talk to family members while EMS members are</p> <p>6 providing treatment for a patient?</p> <p>7 A Yes. Yes, I do all the time.</p> <p>8 Q I'm going to direct your attention to events</p> <p>9 of 15, February, 2016. Were you working that</p> <p>10 day?</p> <p>11 A Yes, sir.</p> <p>12 Q February 15, 2016?</p> <p>13 A Yes, 2016. Yes, I was.</p> <p>14 Q And in what capacity were you working?</p> <p>15 A I was the communications supervisor for EMS.</p> <p>16 Q So you were working in dispatch?</p> <p>17 A Yes, sir.</p> <p>18 Q Was there another captain on duty at that time</p> <p>19 as well?</p> <p>20 A Yes.</p> <p>21 Q And who was that?</p> <p>22 A Captain Ellen Kazimer.</p> <p>23 Q What were her duties for the day?</p> <p>24 A She was the field captain making sure the</p> <p>25 staff was available and had the resources that</p>

19 (Pages 70 to 73)

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1 they needed. We were the only two on duty I'm
 2 pretty sure.
 3 Q And just for our understanding solely, as I'm
 4 understanding it, and I want you to correct me
 5 if I'm wrong, the captain working in dispatch
 6 is in dispatch. I don't want to say static,
 7 but you're in a particular location?
 8 A Yes.
 9 Q And the field operations captain might move
 10 between dispatch or be in a mobile unit at
 11 various places in the city; is that accurate?
 12 A Yes. Yes.
 13 Q Was there a point at which Captain Kazimer
 14 contacted you about an EMS member trying to
 15 contact you?
 16 A Yes, sir.
 17 Q Can you describe that for us?
 18 A At the beginning of the shift Captain Kazimer
 19 called me and said that Paramedic Mark Barrett
 20 wanted to talk to me.
 21 Q I'm sorry to interrupt, Captain. When you
 22 said the beginning of your shift, when did the
 23 shift begin?
 24 A Shift start is six in the morning.
 25 Q For captains?

1 A He stated that he was just contacting me as a
 2 union rep because he knew that I was the union
 3 – what he termed union president. I had
 4 corrected him. No, I'm not the union
 5 president, I'm the steward.
 6 He stated I know you're the union
 7 contact for the captains. And he didn't
 8 really elaborate about the post other than he
 9 was deeply offended by it.
 10 Q Did you have any communications with other EMS
 11 members on February 15, 2016 about the post?
 12 A Close to my lunchtime Captain Kazimer reported
 13 to the RED Center and informed me –
 14 Q The RED Center is dispatch?
 15 A Yes, radio emergency dispatch. It's an
 16 acronym.
 17 Q R-e-d?
 18 A R-e-d, yes.
 19 Q Thank you.
 20 So Captain Kazimer reported in from the
 21 field to radio emergency dispatch and told you
 22 what?
 23 A By that time she came up there. So she
 24 physically entered the building and told me
 25 that a paramedic was trying to reach me,

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1 A Yes. But when I say beginning, the beginning
 2 portion of the shift.
 3 Q I understand.
 4 A So morning time.
 5 Q Within the first couple hours of the shift?
 6 A Yes.
 7 Q Please continue.
 8 A So she contacted me and stated that Mark
 9 Barrett, Paramedic Mark Barrett wanted to talk
 10 to me on an untaped line and it was in
 11 reference to a personal issue. So I finished
 12 up whatever I was doing and she provided me
 13 with a phone number and I called Paramedic
 14 Mark Barrett.
 15 Q And what did you discuss with Mr. Barrett?
 16 A He at that time stated that it was a personal
 17 matter, it was concerning a Facebook post and
 18 he said it was offensive, an offensive post.
 19 He stated that it was a post that was seen on
 20 Captain Marquardt's page.
 21 Q Had you seen the post at the time when first
 22 discussed it with Mr. Barrett?
 23 A No, I don't have Facebook.
 24 Q Did Mr. Barrett make any requests of you with
 25 regard to the post?

1 wanted to be connected with me. She had his
 2 phone number, I didn't. I was in the process
 3 of taking a refusal from a citizen and
 4 finished up the refusal. Not a refusal, a
 5 complaint. Finished up the complaint and then
 6 we exited the dispatch floor and contacted the
 7 employee.
 8 Q And who was that employee?
 9 A Gregory Hyde.
 10 Q And how did you contact the employee?
 11 A Ellen's cell phone. Just put it on speaker.
 12 We went into the conference room so that it
 13 was more private.
 14 Q And what did you discuss, you and Captain
 15 Kazimer, with Mr. Hyde?
 16 A Well, he immediately started talking about a
 17 Facebook post and it being something that
 18 could possibly affect on-scene activity of the
 19 citizens. He stated that it was a racially
 20 inappropriate post and that it could be
 21 volatile. I think that's the word he used.
 22 I'm not sure. But that's what I got out of
 23 it.
 24 He said that he wanted to remain
 25 anonymous, as did Mark Barrett. He also

20 (Pages 74 to 77)

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1 stated that, you know, you're the Union guy
 2 and I just wanted to, you know, get in touch
 3 with you to try to get this taken care of.
 4 And he also stated that, you know, it was
 5 dangerous.
 6 Q Dangerous in regard to him personally or EMS
 7 members?
 8 A Well, what he alluded to was the civil unrest
 9 that was present at the time. And he also
 10 stated that it could be damaging to the
 11 reputation of the City, meaning because
 12 everybody in EMS kind of gets credit for the
 13 bad news that pops in about the Division, so
 14 something hits the media, you know, it's going
 15 to be bad for everybody. That's what he
 16 expressed.
 17 So, you know, at that time I hung up
 18 with him -- well, no, take that back. I
 19 advised him that if it is what you say it is
 20 I'm going to have to report it to my
 21 superiors.
 22 Q And that was in your capacity as an EMS
 23 captain?
 24 A Yes.
 25 Q A supervisor?

1 Q And you accessed that on her phone?
 2 A On her phone.
 3 Q On her phone. All right.
 4 What was your reaction when you saw the
 5 post?
 6 A I just thought it was bad. It was very bad is
 7 what I said. And, you know, I need to report
 8 this to my superiors.
 9 Q Why did you feel it was important to report it
 10 to your superiors?
 11 A Because my job is to report anything that
 12 could be high profile, damaging or unsafe.
 13 Q Did you, in your capacity as an EMS captain
 14 and with your years of experience, conclude
 15 that this post may represent a threat to the
 16 safety of the EMS members?
 17 A I didn't conclude it but it was expressed by a
 18 paramedic, and to make sure that whatever I
 19 felt about it wasn't going to be the important
 20 thing, just making sure the safety was going
 21 to be maintained, that's why I reported it.
 22 Q To whom did you report it?
 23 A Deputy Commissioner David Miller.
 24 Q Deputy commissioner of EMS?
 25 A Yes.

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1 A Yes. And he asked that he remain anonymous.
 2 I told him that I would try to keep him
 3 anonymous. It was very important to me for
 4 both members to stay anonymous, both members
 5 of my shift to stay anonymous, but, you know,
 6 obviously I wasn't able to keep them
 7 anonymous.
 8 Q Had you seen the post before you spoke with
 9 Mr. Hyde?
 10 A No.
 11 Q I'm going to direct your attention to City
 12 Exhibit 1. It should be on the table there in
 13 front of you. It says CX-1 in the lower
 14 right-hand corner. Do you have it there, sir?
 15 A Yes, I do.
 16 Q All right. If you can just look at that for a
 17 moment. I'll ask did you ultimately see the
 18 post that Mr. Hyde and Mr. Barrett referred
 19 to?
 20 A Yes.
 21 Q And was this the post that you saw?
 22 A I'm pretty sure it was, yes.
 23 Q How did you see it? And by that I mean on a
 24 phone, on a laptop, on a computer?
 25 A I saw it on Captain Kazimer's Facebook page.

1 Q I'm going to direct your attention to CX-2.
 2 It should be on the table there in front of
 3 you. Have you ever seen this?
 4 A I've seen it before.
 5 Q And did you see it on February 15th?
 6 A I'm pretty sure I did not.
 7 Q How did you see it or where did you become
 8 aware of it first?
 9 A I'm pretty sure it was in the hearing for
 10 Captain Marquardt.
 11 Q In the disciplinary hearing?
 12 A Disciplinary hearing.
 13 Q And you hadn't seen it prior to that?
 14 A No, I had not.
 15 Q Thank you, sir. I appreciate it.
 16 THE ARBITRATOR: Okay. Cross?
 17 CROSS-EXAMINATION
 18 By Mr. Passalacqua:
 19 Q Good morning, Mike.
 20 A Good morning, sir.
 21 Q So you stated you don't use Facebook, you
 22 don't have Facebook?
 23 A No, I do not.
 24 Q So then you wouldn't have an understanding of
 25 friend or nonfriends or anything like that

21 (Pages 78 to 81)

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<p style="text-align: right;">Page 98</p> <p>1 need to let me superiors know. 2 THE ARBITRATOR: Okay. Fair enough. 3 That's it. Thank you. 4 ELLEN KAZIMER 5 Of lawful age, being first duly sworn, was examined 6 and testified as follows: 7 DIRECT EXAMINATION 8 By Mr. Hoban: 9 Q Captain Kazimer, thank you very much for 10 coming today. 11 Would you please state your full name 12 for the record and spell your last name 13 please? 14 A Sure. It's Ellen Kazimer, K-a-z-i-m-e-r. 15 Q And Captain Kazimer, where are you currently 16 employed? 17 A City of Cleveland Division of EMS. 18 Q And how long have you been employed with EMS? 19 A Since 1995. 20 Q And are you a paramedic? 21 A I'm a paramedic but my current role is 22 operational captain. 23 Q How long have you been an operational captain? 24 A Since 9-18 -- I'm sorry 10-18 of 2011. 25 Q So October 18th of 2011?</p>	<p style="text-align: right;">Page 100</p> <p>1 hands-on care? Do you do liaison with the 2 public on behalf of the treating crew? Can 3 you describe that for us? 4 A As little hands-on care because our role is 5 more globally to observe everything that is 6 going on and help to facilitate anything that 7 might need to be, whether that's packed up, 8 telling the family where we're going, what 9 hospital or what condition. Try to get that 10 together. So not so much hands-on but more 11 controlling the situation that's occurring. 12 Q I'm going to direct your attention -- well, 13 let me ask this question first: Having worked 14 for EMS for almost 23 years can you describe 15 the relationship between EMS and the 16 community? 17 A Well, you mean our responsibilities, what I 18 feel our responsibility is? 19 Q What kind of relationship does EMS try to 20 maintain with the community? 21 A A neutral. You know, we're not there to 22 judge. I mean, I can say that there are times 23 where we have somebody who needs to be treated 24 and oftentimes it's hey, it doesn't matter to 25 us what you did, I just need to know so I can</p>
<p style="text-align: right;">Page 99</p> <p>1 A Uh-huh. 2 Q What are the duties of an EMS captain? 3 A Well, what aren't the duties of an EMS 4 captain? We have a wide variety of duties; 5 staffing, supplies, medications, overseeing 6 personnel, handling complaints, whether it be 7 families, communities, hospital staff, 8 handling injuries, MVAs, exposures. Just 9 about anything that would occur in our 12 hour 10 shift we're likely going to touch. 11 Q And as a captain your shift is from 6 a.m. to 12 6 p.m.? 13 A Mine is, yes. 14 Q When you work, is that correct? 15 A Uh-huh. 16 Q Do you respond to EMS calls? 17 A We do have calls that we're required to go to 18 and other ones that we can go to at our 19 discretion. 20 Q What types of calls are you required to go to? 21 A Anything that is high level, gunshot wounds, 22 MVAs, suicide attempts, anything that might be 23 in the public, high profile. 24 Q Do you have any particular duties when you 25 respond to an actual EMS call? Do you do</p>	<p style="text-align: right;">Page 101</p> <p>1 treat you appropriately. So kind of just a 2 neutral party so that we can get to the end 3 means, which is treating the person 4 appropriately so not to make any judgments. 5 Q I'm going to direct your recollection to 6 February 15th of 2016. Were you working that 7 day? 8 A I was. 9 Q And in what capacity were you working? 10 A As a operational captain in the field as 11 Captain 1. 12 Q Was there another captain scheduled that day 13 as well? 14 A The other captain was Captain Threat who was 15 at the dispatch center. 16 Q Did you receive any communication from any EMS 17 member on 15, February, 2016 who wanted to get 18 in touch with Captain Threat? 19 A That is correct. Paramedic Mark Barrett had 20 contacted me wanting to get ahold of Captain 21 Threat and I said, you know, is this work 22 related, what is this. He said I just need to 23 talk to him about something. And I said I'm 24 not going to give you Mike's number, but if 25 you give me your number I'll pass it on to</p>

26 (Pages 98 to 101)

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<p>1 Mike. That's what I did.</p> <p>2 Q Did you ever speak to Mr. Barrett on February</p> <p>3 15th?</p> <p>4 A Other than that conversation?</p> <p>5 Q Other than that conversation.</p> <p>6 A No.</p> <p>7 Q Did you pass his number on to Captain Threat?</p> <p>8 A I did.</p> <p>9 Q Okay. Do you know if Captain Threat spoke</p> <p>10 with Mr. Barrett?</p> <p>11 A To my recollection I don't know if he reached</p> <p>12 out to him or not.</p> <p>13 Q Did you receive or have a communication with</p> <p>14 any other EMS member on February 15th, this is</p> <p>15 other than Mr. Barrett, regarding a Facebook</p> <p>16 post from Mr. Marquardt?</p> <p>17 A Yes, then I received later on in the day a</p> <p>18 text from Paramedic Greg Hyde saying that he</p> <p>19 needed to speak with or wanted to speak with</p> <p>20 Captain Threat regarding something that he saw</p> <p>21 that he wanted to reach out to us,</p> <p>22 specifically Mike, to talk to him about it.</p> <p>23 Q Were you aware or had you seen a Facebook post</p> <p>24 at that point? Did you know what that was</p> <p>25 about at that time?</p>	<p>1 Q I'll direct your attention to City Exhibit 1.</p> <p>2 It's identified there as CX-1. Did you at</p> <p>3 some point on February 15th view this post?</p> <p>4 A I did.</p> <p>5 Q And how did you view it?</p> <p>6 A Through my cell phone. Is that what you're</p> <p>7 looking for, how I actually saw it?</p> <p>8 Q Yes. Physically.</p> <p>9 A On my cell phone.</p> <p>10 Q Did you look at it with anybody else or just</p> <p>11 by yourself?</p> <p>12 A No, Captain Threat and I looked at it at that</p> <p>13 time.</p> <p>14 Q What was your reaction to it when you saw it?</p> <p>15 A I was a bit shocked and disappointed.</p> <p>16 Q Why?</p> <p>17 A I just felt that the nature of what was</p> <p>18 written was upsetting to me.</p> <p>19 Q In your discussion with Captain Threat with</p> <p>20 Mr. Hyde, did Mr. Hyde express his concerns</p> <p>21 about the post to you? You said he had</p> <p>22 concerns about Captain Marquardt and then he</p> <p>23 had other concerns. What were those other</p> <p>24 concerns?</p> <p>25 A Just how it would paint us, us being the</p>
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<p>1 A No. You know, our day flows, our day flows.</p> <p>2 It wasn't anything that seemed to require my</p> <p>3 immediate attention at the time.</p> <p>4 Q Did you speak to Mr. Hyde that day?</p> <p>5 A Both Captain Threat and I spoke with him on</p> <p>6 speaker phone on my cell phone.</p> <p>7 Q Now, you don't hold the position of steward or</p> <p>8 any officer positions with the CWA?</p> <p>9 A No.</p> <p>10 Q You are a member?</p> <p>11 A That's correct.</p> <p>12 Q But you have no office with CWA?</p> <p>13 A That's correct.</p> <p>14 Q How did the communication with you and Captain</p> <p>15 Threat occur with Mr. Hyde? Was it on a cell</p> <p>16 phone? Where was it?</p> <p>17 A On my cell phone in a conference room with</p> <p>18 doors closed so as to, whatever the situation</p> <p>19 is, maintain privacy.</p> <p>20 Q And what was the nature of the discussion with</p> <p>21 Mr. Hyde?</p> <p>22 A He wanted to express to us his concern about</p> <p>23 posts that were made and his concern for</p> <p>24 Captain Marquardt and for all of us in general</p> <p>25 due to the nature of the post.</p>	<p>1 Division, possibly in not the best light with</p> <p>2 the community.</p> <p>3 Q Did he express any safety concerns?</p> <p>4 A Yes.</p> <p>5 Q Anything specific or what were the nature of</p> <p>6 the safety concerns?</p> <p>7 A My general recollection is that it just -- it</p> <p>8 could potentially put us in a position where</p> <p>9 the community may not understand. As we know</p> <p>10 how things role out in this life and such</p> <p>11 completely that it could be somebody in --</p> <p>12 could put them in danger, whether it be, you</p> <p>13 know, verbally harassed or build upon that.</p> <p>14 Q I'll direct your attention to CX-2, which</p> <p>15 should also be there on the table in front of</p> <p>16 you. Had you seen this post from</p> <p>17 Mr. Marquardt as well?</p> <p>18 A This one I saw later.</p> <p>19 Q And what was your reaction to this when you</p> <p>20 saw it?</p> <p>21 THE ARBITRATOR: Could we identify</p> <p>22 later?</p> <p>23 Q Indeed. How long ago was later?</p> <p>24 A It was after I left the RED Center.</p> <p>25 Q Still during the workday before 6 p.m.?</p>

27 (Pages 102 to 105)

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1 A Correct.
 2 Q But after you had actually left dispatch?
 3 A Right.
 4 Q What was your reaction when you saw it?
 5 A It would have been similar to the initial
 6 reaction I had.
 7 Q Did you take any action after your
 8 communication with Mr. Hyde and having seen
 9 the post?
 10 A I did not, no.
 11 Q Do you know if any action was taken?
 12 A Captain Threat contacted Deputy Commissioner
 13 David Miller.
 14 Q Did you agree that Commissioner Miller should
 15 be contacted?
 16 A Yes, I did agree.
 17 Q And why did you agree?
 18 A It looked like something that was not --
 19 something that shouldn't be addressed at our
 20 level and needed to be addressed at a higher
 21 level than an operational captain.
 22 Q Thank you, Captain. I have nothing further.
 23 THE ARBITRATOR: Cross when you're
 24 ready, sir.
 25 CROSS-EXAMINATION

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1 By Mr. Passalacqua:
 2 Q Good morning.
 3 A Good morning.
 4 Q All right. So you have Facebook?
 5 A I do.
 6 Q All right. Are you friends with Jamie on
 7 Facebook?
 8 A I was at that time.
 9 Q At that time. When you were friends with
 10 Jamie was there any indication on his Facebook
 11 page where he was employed?
 12 A No, not that I can recall.
 13 Q He didn't reference at any time working for
 14 the City or anything like that?
 15 A Not that I can recall.
 16 Q So nothing to tie Jamie to the City other than
 17 you knew where he worked?
 18 A My personal knowledge, correct.
 19 Q So there was no public knowledge to that?
 20 A As far as I know, correct.
 21 Q And you said you work with the public in your
 22 role as a captain?
 23 A That's correct.
 24 Q One would assume Jamie also does, seeing he
 25 had the same position?

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1 A Uh-huh.
 2 Q Was there any interaction with the public that
 3 you saw that was detrimental, was it negative
 4 in any fashion due to this post? Was there
 5 any safety concerns due to this post that
 6 you're aware of?
 7 A None that I am aware of.
 8 Q After this post are you aware if Jamie still
 9 worked in the field?
 10 A I have no recollection what his assignments
 11 would have been after that. He was on a
 12 different shift.
 13 Q But you saw his name on the roster, you knew
 14 he was scheduled and stuff like that?
 15 A Correct.
 16 Q So he was still working after these posts?
 17 A To the best of my recollection.
 18 Q And there was no public negative interaction
 19 or anything?
 20 A I did not experience any.
 21 Q All right. Okay. You said that you received
 22 phone calls from Mr. Barrett and Mr. Hyde
 23 specifically asking to talking to Mr. Threat?
 24 A Uh-huh.
 25 Q Did they state why they wanted to talk to

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1 Mr. Threat and not to you?
 2 A I did ask, because oftentimes -- sometimes our
 3 guys just want to talk to the other guys about
 4 stuff and it is something I can handle. But
 5 they wanted to speak to him in the capacity of
 6 being the union steward and another union
 7 member.
 8 Q They weren't talking to Captain Threat as a
 9 captain, they were talking to him because it
 10 was a union issue?
 11 A Correct.
 12 Q Okay. You stated that Mr. Hyde made a comment
 13 concerned about Jamie. Did he elaborate on
 14 his concern for Jamie?
 15 A I can only think that he felt it may have been
 16 uncharacteristic and so therefore what was
 17 going on.
 18 Q So you thought it was unlike Jamie?
 19 A That's what I think that Greg Hyde thought.
 20 Q Okay. Thank you. Are you aware of City of
 21 Cleveland employees making posts on social
 22 media in the past that may be characterized as
 23 negative, inflammatory, discriminatory?
 24 A I'm sure stuff happens.
 25 Q Are you aware of any disciplinary action ever

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<p style="text-align: right;">Page 178</p> <p>1 if you're resting at the moment with the right 2 to rebuttal. 3 MR. HOBAN: Right. 4 THE ARBITRATOR: Let's take a break. 5 Off the record. 6 (Luncheon recess.) 7 --- 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 180</p> <p>1 JAMIE MARQUARDT 2 Of lawful age, being first duly sworn, was examined 3 and testified as follows: 4 DIRECT EXAMINATION 5 By Mr. Passalacqua: 6 Q Jamie, please state and spell your name for 7 the court reporter. 8 A Jamie Marquardt. J-a-m-i-e. Marquardt is 9 spelled M-a-r-q-u-a-r-d-t. Sorry, I've got a 10 cold. 11 Q Jamie, approximately how long have you worked 12 for the City? 13 A Since September of '95. 14 Q Since September of '95. And it's always been 15 for the Department of EMS? 16 A Correct. 17 Q And originally you were hired as what? 18 A A paramedic. 19 Q Paramedic. Okay. Eventually you were 20 promoted; is that correct? 21 A Yes. 22 Q Who promoted you into what position? 23 A Commissioner Eckart. At the time he was 24 Commissioner Eckart. Assistant Safety 25 Director Eckart promoted me to sergeant to</p>
<p style="text-align: right;">Page 179</p> <p>1 AFTERNOON PROCEEDINGS 2 THE ARBITRATOR: Dave, your case. 3 MR. HOBAN: I will just note two 4 things, housekeeping. Two things for the 5 record: One, because Commissioner Carlton had 6 to leave for a family commitment Assistant 7 Safety Director Ed Eckart is sitting in as the 8 City's representative. 9 Additionally, pursuant to the questions 10 before, the copies of the City Civil Service 11 rules which were entered as Joint Exhibit 7 12 were last updated or last revised in 2006. 13 THE ARBITRATOR: Just a year you have? 14 MR. HOBAN: That's it. 15 And then the EMS rules and regulations 16 were last revised in 2005. 17 THE ARBITRATOR: And that was H, 18 right? 19 MR. HOBAN: That was H, yes, sir. 20 THE ARBITRATOR: Okay. That's all I 21 need. That's all I need. All right. Good 22 enough. Now, I think you start. 23 MR. PASSALACQUA: All right. Well, the 24 Union calls their first witness, Jamie 25 Marquardt.</p>	<p style="text-align: right;">Page 181</p> <p>1 work in the office in the logistics 2 department. That was probably about 2010 3 approximately. 4 Q 2010 approximately. Okay. And subsequently 5 after that you were eventually promoted a 6 second time? 7 A Yes. 8 Q All right. You were promoted to what? 9 A Operational captain. 10 Q Do you know approximately when that occurred? 11 A That was May -- May of 2013. 12 Q May of 2013. And who promoted you? 13 A Commissioner Carlton. 14 Q Commissioner Carlton. Okay. I would like to 15 point to Tab 7 of the Union binder, Page 33. I 16 believe this is a memo to the Civil Service 17 Secretary from Acting Commissioner Carlton 18 asking Jamie and Beatrice Gomez to be 19 considered for a promotion, followed on page 20 34 by a certificate of appointment, and then a 21 conduct evaluation on Page 35, 36 and 37. 22 Jamie, looking at Page 30 of the 23 evaluation, on 35, 36, 37, is this an 24 evaluation for your job as a captain? 25 A It appears to be, but to be honest with you I</p>

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<p>1 said while you remember the first post at the</p> <p>2 top of the first page you just don't recall</p> <p>3 any of the others; is that correct?</p> <p>4 A Yes.</p> <p>5 Q You're not denying that you made them, you</p> <p>6 just don't remember making them?</p> <p>7 A I mean, some of these are blank. They're in</p> <p>8 all different order. There is a different</p> <p>9 font. So that's what I'm going from, my</p> <p>10 memory.</p> <p>11 Q Okay. That's fair. I'm just saying you don't</p> <p>12 remember. You're not saying you didn't make</p> <p>13 this, you just don't remember?</p> <p>14 A Right, except for the one I do.</p> <p>15 Q You do remember the first one, right?</p> <p>16 A Yes.</p> <p>17 Q I'm going to direct your attention to City</p> <p>18 Exhibit 1 that should be on the table there in</p> <p>19 front of you.</p> <p>20 A I'm well aware of it.</p> <p>21 Q Just so you have it. You've got it there. So</p> <p>22 looking at City Exhibit 1, that's your name at</p> <p>23 the top of the page, right?</p> <p>24 A Yes.</p> <p>25 Q Jamie Marquardt?</p>	<p>1 A Many were not. Only a handful.</p> <p>2 Q Only a handful. But there were some?</p> <p>3 A There were some.</p> <p>4 Q How about firemen, city firemen?</p> <p>5 A Maybe a few.</p> <p>6 Q A few as well. How about police?</p> <p>7 A A few again.</p> <p>8 Q So there were some police, EMS and fire among</p> <p>9 your Facebook friends?</p> <p>10 A Yes.</p> <p>11 Q And those friends knew that you were an EMS</p> <p>12 captain?</p> <p>13 A Yeah.</p> <p>14 Q Now, you would agree with me that EMS needs</p> <p>15 the trust of the community to operate</p> <p>16 effectively?</p> <p>17 A I agree.</p> <p>18 Q They have to look at EMS as the good guys?</p> <p>19 A Yes.</p> <p>20 Q And not feel judged or condemned by EMS</p> <p>21 members?</p> <p>22 A Yes, I agree with that.</p> <p>23 Q And that's a question of the operational</p> <p>24 effectiveness of EMS, correct?</p> <p>25 A Yes.</p>
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<p>1 A Yes.</p> <p>2 Q That's a picture of you?</p> <p>3 A Yes.</p> <p>4 Q City Exhibit 2 should be there on the table in</p> <p>5 front of you as well. Looks like this.</p> <p>6 (Indicating.) CX-2 down on the lower</p> <p>7 right-hand corner.</p> <p>8 A I'm having a heck of a time finding these</p> <p>9 things. There you go.</p> <p>10 Q Do you have it?</p> <p>11 A Yes.</p> <p>12 Q This post also has your name at the top?</p> <p>13 A Yes.</p> <p>14 Q And that looks like part of a picture of you</p> <p>15 to the upper left-hand side?</p> <p>16 A Yeah, it's the same picture.</p> <p>17 Q Okay. Now, in February of 2016 at the time</p> <p>18 that these two posts were made, City Exhibit 1</p> <p>19 and City Exhibit 2, you were Facebook friends,</p> <p>20 as you said, you had approximately 250</p> <p>21 Facebook friends; is that correct?</p> <p>22 A Yes.</p> <p>23 Q Many of those friends were EMS employees?</p> <p>24 A No.</p> <p>25 Q Many were not?</p>	<p>1 Q And the safety of EMS members?</p> <p>2 A Yes.</p> <p>3 Q Tamir Rice had been a patient of Cleveland</p> <p>4 EMS, correct?</p> <p>5 A Of EMS, yeah, not me.</p> <p>6 Q Not you personally, but of Cleveland EMS?</p> <p>7 A Yes.</p> <p>8 Q You texted -- and this was in relation to --</p> <p>9 we can go from Tab 8, Page 6.</p> <p>10 A Are we done with these? (Indicating.)</p> <p>11 Q We may very well be back to those. But what</p> <p>12 I'm also going to -- what I'm also going to go</p> <p>13 to is City Exhibit 5, which looks like this.</p> <p>14 (Indicating.) It's actually copies of text</p> <p>15 messages between you and -- there you have it.</p> <p>16 A All right.</p> <p>17 Q So as we see in Tab 8, Page 6 there in the</p> <p>18 binder and on City Exhibit 5, and as you</p> <p>19 testified, on the afternoon of February 15,</p> <p>20 2016 you texted Commissioner Carlton and told</p> <p>21 her about the post, correct?</p> <p>22 A Yes.</p> <p>23 Q And you told her that a friend grabbed your</p> <p>24 phone and made the post?</p> <p>25 A Correct.</p>

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1 State of Ohio,)
 2 County of Cuyahoga.) SS:

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 4 C E R T I F I C A T E

5 This certifies that the foregoing is a true
 6 and correct transcript of the proceedings had
 7 before the American Arbitration Association,
 8 held at Burke Lakefront Airport, 1501 North
 9 Marginal Road, Cleveland, Ohio 44114-1077], on
 10 Thursday, January 18, 2018, commencing at
 11 10:00 a.m.

12
 13 In the Matter of Arbitration Between:
 14 Communication Workers of America, Local 4340
 15 and
 16 City of Cleveland
 17 Case No.: 01-16-0004-6966

18
 19 *Mary Belas-Dietz*

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